IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8443 OF 2005

Rashmi Gruh Nirman
Pvt. Ltd., ... Petitioner.

vs.

Unique Shanti Developers .. Respondents.

Mr. V.B. Naik i/by R.P. Mudholkar & Sneha Dwivedi for petitioner.

Mr. Y.S. Jahagirdar, Sr. Adv. i/by Desai and Diwanji for respondents.

CORAM : S.U. KAMDAR, J.

DATE : 15th December, 2005.

P.C.:

. The present petition is challenging the order passed on exhibit-1 in M.A No. 297 of 2005 dated 27.9.2005. By the said order the amendment application has been granted. The learned counsel for the petitioner has contended that by virtue of grant of amendment the case of the petitioner pleaded before this Court in CA No. 1174 of 2001 in A.O. No. 954 of 2001 as recorded in an order dated 1.11.2001 has been diluted and/or sought to be

wriggled out therefrom. I am of the opinion that even if the said averment is added there is no question of coming out of any alleged admission. The order dated 1.11.2001 speaks for itself and on merits it can always be argued that the averments made in the petition and the averments made now are contrary to the averments made in the order dated 1.11.2001. However, that is the argument on merits. Application cannot be rejected on that ground alone. There is no infirmity in the order passed by the trial Court. The petition fails and the same is dismissed.